

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

CHRISTINE POPP,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 1:19-cv-03664-JPH-DML
	)	
MONROE COUNTY SHERIFF in his	)	
official capacity,	)	
	)	
Defendant.	)	

**ORDER GRANTING JOINT MOTION FOR ENTRY OF AGREED  
DECLARATORY JUDGMENT**

Christine Popp and Monroe County Sheriff filed a joint motion for entry of an agreed declaratory judgment. Dkt. [13]. For the reasons in the motion and this Order, the Court **GRANTS** the motion.

On August 28, 2019, Ms. Popp filed a civil complaint for declaratory judgment and injunctive relief against the Monroe County Sheriff. Dkt. 1. The complaint alleges that the Sheriff violated the First Amendment by “hiding” comments on the Monroe County Sheriff’s official Facebook page based on the viewpoint expressed in those comments. *Id.*; *see also* dkt. 13.

The Court has jurisdiction of this case under 28 U.S.C. § 1331. Declaratory relief is authorized by Rule 57 of the Federal Rules of Civil Procedure and 28 U.S.C. §§ 2201 and 2202.

The parties agree that this case may be resolved with a declaratory judgment and that injunctive relief is not needed. Dkt. 13. The declaratory judgment agreed upon and proposed by the parties is supported by the

weight of authority.

The First Amendment forbids the State from exercising viewpoint discrimination “even when the limited public forum is one of its own creation.” *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 829 (1995). The interactive portion of an official government Facebook page is within the scope of First Amendment protection. *See Packingham v. North Carolina*, 137 S. Ct. 1730, 1735–36 (2017) (social media is a “vast democratic forum” analogous to traditional public forums, such as parks). Therefore, “hiding” comments on the interactive portion of an official government Facebook page may be unconstitutional viewpoint discrimination. *See Robinson v. Hunt Cty., Texas*, 921 F.3d 440, 447 (5th Cir. 2019) (a government official’s act of deleting certain comments from the sheriff department’s official Facebook page was unconstitutional viewpoint discrimination); *see also Knight First Amendment Inst. at Columbia Univ. v. Trump*, 928 F.3d 226, 239 (2d Cir. 2019); *Davison v. Randall*, 912 F.3d 666, 680 (4th Cir. 2019); *One Wis. Now v. Kremer*, 354 F. Supp. 3d 940, 956 (W.D. Wis. 2019).

Based on the facts presented in the record, the parties’ agreement and the applicable law, the Court finds that the issuance of the declaratory judgment agreed upon and proposed by the parties is appropriate and **GRANTS** the motion, dkt. [13].

Final judgment shall enter accordingly.

**SO ORDERED.**

Date: 3/31/2020

James Patrick Hanlon

James Patrick Hanlon  
United States District Judge  
Southern District of Indiana

Distribution:

Lee F. Baker  
MONROE COUNTY LEGAL DEPARTMENT  
lfbaker@co.monroe.in.us

Gavin Minor Rose  
ACLU OF INDIANA  
grose@aclu-in.org